



COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION
"Creating Community Through People, Parks and Programs"

Russ Guiney, Director

December 6, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF SAN GABRIEL RIVER DISCOVERY CENTER AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT
(First District 3-Vote Matter)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find this action categorically exempt from the provisions of the California Environmental Quality Act (CEQA).
2. Approve and instruct the Chair to sign the attached Joint Exercise of Powers Agreement (Agreement).

PURPOSE OF RECOMMENDED ACTION/JUSTIFICATION

Approval of this action will authorize the County to enter into a Joint Powers Authority (JPA) Agreement to provide for the planning, development, construction and operation of a proposed San Gabriel River Discovery Center (Discovery Center) within the natural area at Whittier Narrows Regional Recreation Area (Whittier Narrows). The public entity parties to the proposed JPA are the County of Los Angeles, the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC), the Upper San Gabriel Valley Municipal Water District (Upper District), and the Central Basin Municipal Water District (Central Basin).

Whittier Narrows is owned by the Army Corps of Engineers (Corps) and is operated by the County of Los Angeles under an Operating Agreement with the Corps. The existing Nature Center at the site is small and in need of refurbishment. The proposed Discovery Center would replace the existing nature center at the park and allow for expanded educational and interpretive programs focused on the San Gabriel River and the conservation of water resources.

The creation of the JPA will provide a clearly defined collective governance structure that will allow development of a comprehensive program for the planning, development, construction, and operation of the Discovery Center, to commence. Each of the member agencies to the JPA offers important assets that will help ensure the success of the Discovery Center.

- The County Department of Parks and Recreation (Department) operates the existing Nature Center and is interested in replacing and expanding the aging facilities.
- The RMC is a State agency with responsibility over the planning, acquisition, and development of educational and interpretive programs along the San Gabriel and Lower Los Angeles Rivers.
- The Upper District and Central Basin are water districts with an interest in expanding educational and interpretive programs along river corridors in this area of the County.

Contingent upon your Board's approval of the proposed JPA, the Department will return to your Board with further recommendations concerning project scope and funding sources, proposed subleases, environmental documents and findings, and operational agreements.

Implementation of Strategic Plan Goals

Approval of the JPA will further the Board-approved County Strategic Plan Goals No. 3, Organizational Effectiveness, by cooperating with member agencies and No. 6, Community Services, by providing for the potential construction and operation of an interpretive center for recreational and education purposes.

FISCAL IMPACT/FINANCING

Creation of the JPA is an organizational action and will have no impact on the General Fund. The Department will return to your Board with any recommendations regarding County contributions to the JPA and/or the proposed project.

FACTS AND PROVISIONAL/LEGAL REQUIREMENTS

On August 12, 2003, the County entered into a Cooperative Agreement for the initial planning and design of a Discovery Center with the RMC and the Upper District. The Cooperative Agreement succeeded in generating public interest in the potential development of a Discovery Center at Whittier Narrows. Since the initial Cooperative

Agreement was entered into by the original member agencies, the Central Basin has offered to become a member in the JPA.

The Joint Exercise of Powers Act (Government Code § 6500 et. sec.) allows for the creation of the JPA. The independent JPA will be governed by the statutory procedures applicable to the County. The authority shall be officially called the San Gabriel River Discovery Center Authority. The Governing Board of the JPA will be comprised of a designee of each of the agencies that are party to the JPA and the Chair of the Stakeholder Advisory Committee. The Stakeholder Committee was created to advise the JPA of private, non profit and other governmental agencies interest in the Discovery Center. Additional public agencies, within the meaning of Section 6500, may become a Party to the JPA by resolution of the governing boards of each of the then existing Parties and a majority approval of the Public Agency Board Members. An Executive Officer may be appointed by the JPA to perform duties as prescribed by the authority.

By approving the creation of the JPA, the Authority will be allowed to exercise its common member powers to the maximum extent possible in the planning, construction, and operation of the facility. However, the JPA shall have no power to acquire property by eminent domain.

The Agreement was approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

Approval of this action is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b) (3) of the State CEQA Guidelines because it can be seen with certainty that it will have no significant effect on the environment. Any future action by the Authority to authorize projects will require compliance with CEQA.

IMPACT ON CURRENT SERVICES AND PROJECTS

The approval of the JPA will have a positive impact for the public interested in interpretive and recreational resources in the County. The improved services will assist the County in providing quality recreation for public use.

The Honorable Board of Supervisors
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CONCLUSION

It is requested that five conformed copies of this action be returned to the Department.

Respectfully submitted,

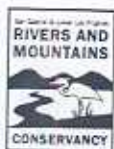
A handwritten signature in dark ink, appearing to read 'Russ Guiney', with a stylized flourish at the end.

Russ Guiney
Director

c: Executive Officer



County of Los Angeles



San Gabriel and
Lower Los Angeles
Rivers and Mountains
Conservancy



SAN GABRIEL RIVER DISCOVERY CENTER AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

THIS JOINT EXERCISE OF POWERS AGREEMENT (the "Agreement") is made and entered into, on this ____ day of _____ 20____ (the "Effective Date") pursuant to Title 1, Division 7, Chapter 5, Article 1 (§6500 *et seq.*) of the California Government Code by and among the following public agency entities:

- A. The County of Los Angeles, a political subdivision of the State of California and a body corporate and politic pursuant to the California Government Code (Govt. §23000 *et seq.*) (hereinafter, the "County"); and
- B. The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, a state agency organized within the California Resources Agency pursuant to the California Public Resources Code (Public Resources Code §32600 *et seq.*); (hereinafter, the "RMC");
- C. The Upper San Gabriel Valley Municipal Water District, a California Municipal Water District organized under the California Water Code (Water Code §71000 *et seq.*) (hereinafter, the "Upper District"); and
- D. The Central Basin Municipal Water District, a California Municipal Water District organized under the California Water Code (Water Code §71000 *et seq.*) (hereinafter, the "Central Basin").

For the purposes of this Agreement the County, the RMC, Upper District and Central Basin may be referred to collectively as the "Parties" or individually as a "Party".

WITNESSETH:

WHEREAS, the Parties are each "public agencies" within the meaning of Section 6500 of the California Government Code and authorized by their respective governing bodies to jointly exercise any power common to them pursuant to Title 1 (General), Division 7 (Miscellaneous), Chapter 5 (Joint Exercise of Powers) of the California Government Code (Govt. Code §6500 *et seq.*); and

WHEREAS, the Parties seek to undertake the construction of an educational facility under the aegis of a joint exercise of powers authority with the multi-faceted purpose of (1) increasing public knowledge of water-related environmental issues, including water conservation and natural habitat preservation and restoration; (2) increasing public awareness of the rich and vibrant history of the San Gabriel River the important role it has played in the social and economic development of the San Gabriel Valley; (3) raising capital for the construction of the educational facility; (4) raising support for the ongoing operation of the educational facility; and (5) procuring outside funding on behalf of the educational facility; and

WHEREAS, the Parties, on or about August 12, 2003 made and entered into an interim Cooperative Agreement for the initial planning and design of the proposed educational facility – a facility whose proposed name is the “San Gabriel River Discovery Center” (hereinafter, the “Discovery Center”); and

WHEREAS, the interim Cooperative Agreement succeeded in generating public interest in the development of the Discovery Center while also enabling the Parties and other interested public and private organizations to develop a clearer vision of the Discovery Center’s purpose and focus; and

WHEREAS, the Parties now recognize the need to develop a flexible yet more clearly defined collective governance structure to proceed with the planning, development, construction and operation of the Discovery Center; and

WHEREAS, the Parties continue to welcome and encourage the active participation and involvement of other public agencies and private organizations (collectively, “Stakeholders”) in the planning, development, construction and operation of the Discovery Center; and

WHEREAS, the Parties also envision and welcome the addition of other public agencies as Parties to this Agreement; and

WHEREAS, the joint exercise of powers authority created by this Agreement shall serve as an efficient and inclusive vehicle for making the Discovery Center a reality.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES OF THE PARTIES HERETO, AND THE PROVISIONS, CONDITIONS AND TERMS PROVIDED FOR HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I PURPOSE

- 1.1 Creation of Authority: There is hereby created a joint exercise of powers authority to be known as the “San Gabriel River Discovery Center Authority” (hereinafter, the “Authority”). The Authority is formed by this Agreement pursuant to the provisions of Title One, Division 7, Chapter 5, Articles 1 and 2 of the California Government Code (Govt. Code §6500 *et seq.*). It is the intent of the Parties that the Authority shall be the entity responsible for administering this Agreement and shall be a public entity separate and apart from the Parties.
- 1.2 Purpose: The purpose of this Agreement, its attached exhibits and the joint exercise of powers authority it creates is as follows:

- (a) To increase public knowledge of water-related environmental issues, including water conservation and natural habitat preservation and restoration;
- (b) To increase public awareness of the rich and vibrant history of the San Gabriel River and the important role it has played in the social and economic development of communities along its water course;
- (c) To raise public awareness of the importance of conserving and protecting ground water resources in the Main San Gabriel Basin and in the Central Groundwater Basin;
- (d) To raise capital for the planning, design, development, construction and operation of the Discovery Center;
- (e) To generate public and institutional interest and support for the ongoing operation of the Discovery Center;
- (f) To harness the vision, insight and creativity of other civic-minded, public and private organizations for the development of exceptional, informative and inspiring educational displays and educational programs; and
- (g) To identify, procure and secure reliable, long-term funding sources for the ongoing operation and maintenance of the Discovery Center.

ARTICLE II DEFINITIONS

2.1. Definitions: For the purposes of this Agreement, the following terms shall have the meanings set forth below, unless otherwise indicated herein:

- (a) Authority: The term "Authority" means the San Gabriel River Discovery Center Authority, a joint exercise of powers authority created pursuant to this Agreement in accordance with Title 1, Division 7, Chapter 5 (Joint Exercise of Powers) of the California Government Code (Govt. Code §6500 *et seq.*)
- (b) Board: The term "Board" means the governing board of the San Gabriel River Discovery Center Authority. The Board consists of the representatives of each public agency Party to this Agreement in addition to one Stakeholder representative.
- (c) Board Member: The term "Board Member" means any one of the occupants of the representational seats that make up the governing board of the San Gabriel River Discovery center. For the purposes of this Agreement, the plural term "Board Members" shall refer either to the membership of entire Board or to more than one Board Member, whichever meaning is reasonably appropriate given the context of its use. Upon the initial execution of this Agreement, the Board shall consist of a representative for the County, a representative for the RMC, a representative for the Upper District, a representative for the Central Basin, and a representative of the Stakeholders. The foregoing, however, shall not be interpreted to preclude the addition of new Board Members through the addition of new Parties to this Agreement

pursuant to Section 10.5 (Admission of New Parties), below.

- (d) Brown Act: The term "Brown Act" means the Ralph M. Brown Act codified under the California Government Code. (Govt. Code §54950 *et seq.*).
- (e) Discovery Center: The term "Discovery Center" means the San Gabriel River Discovery Center, an interactive educational facility dedicated to: (1) increasing public knowledge of water-related environmental issues, including water conservation and natural habitat preservation; (2) increasing public awareness of the rich and vibrant history of the San Gabriel River and the important role it has played in the social and economic development of the communities along its water course; (3) raising capital for the construction of the educational facility; (4) raising support for the ongoing operation of the educational facility; and (5) procuring outside funding on behalf of the educational facility.
- (f) May: The word "may," as used herein, refers to matters that are discretionary. The phrase "may not," however refers to matters that are prohibited.
- (g) Public Agency Board Member: The term "Public Agency Board Member" refers to those Board Members representing any public agency Party to this Agreement. The plural term "Public Agency Board Members" shall be a collective reference to all of the Public Agency Board Members or a grouping consisting of more than one Public Agency Board Member, whichever is reasonably appropriate given the context.
- (h) Shall and Must: The words "shall" and "must," as used herein, refer to matters that are mandatory.
- (i) Stakeholder: The term "Stakeholder" means any public entity or private organization, whether non-profit or for-profit whose insight and expertise are intended to assist the Authority in the planning, design, construction, operation and maintenance of the Discovery Center. No entity may be considered a Stakeholder, unless and until such entity is approved to become a Stakeholder by unanimous vote of the Public Agency Board Members and is made a signatory to the "Stakeholders Agreement." An entity's status as a Stakeholder may be revoked by a two-thirds (2/3) majority vote of the Public Agency Board Members, with or without cause.
- (j) Stakeholder Agreement: That certain written agreement by which various public agencies and non-profit organizations may become Stakeholders and agree to be bound by the terms, conditions, provisions, duties and obligations set forth therein.

ARTICLE III POWERS OF AUTHORITY

- 3.1. Powers: Pursuant to Sections 6503.5 and 6506 of the California Government Code, responsibility for the administration of this Agreement and the Discovery Center shall rest with the Authority through its Board. In the name of the Authority, the Board shall exercise the powers common to the Parties which include the power:
 - (a) To make and enter into contracts, leases and other agreements for the purpose of planning,

- designing, constructing, operating, funding and/or maintaining the Discovery Center;
- (b) To hire employees and retain agents, consultants, independent contractors and other service providers for the purpose of planning, designing, constructing, operating, funding and/or maintaining the Discovery Center;
 - (c) To acquire, contract for, construct, manage, maintain, or operate any building or other facility necessary for the construction, operation and/or maintenance of the Discovery Center;
 - (d) To incur debt, liabilities or obligations in the furtherance of the planning, development, design, construction, operation and ongoing maintenance of the Discovery Center;
 - (e) To finance any capital acquisition or improvement or the maintenance, servicing, and operation of any improvement, facility, park or open space land;
 - (f) To acquire, hold or dispose of property by lease, lease purchase, purchase or sale;
 - (g) To apply for and execute appropriate grants or contracts for the purpose of financing the planning, design, construction, operating and/or maintenance of the Discovery Center;
 - (h) To sue or be sued in its own name, provided that the Authority shall not commence or intervene in any lawsuit without the approval of its Board;
 - (i) To raise revenue, to levy and collect rates, fees and charges, and to issue bonds, notes, warrants and other evidences of indebtedness to finance the costs and expenses incidental to the purpose of the Authority;
 - (j) To set the operational programs of the Discovery Center;
 - (k) To contract with the federal government of the United States of America, the State of California and any other governmental entity;
 - (l) To contract with any public agency (including the County, the Upper District, the RMC or the Central Basin) or any private entity for the routine, day-to-day operation and maintenance of the Discovery Center facility;
 - (m) To create, organize and dissolve subcommittees in its sole and absolute discretion;
 - (n) To invest surplus funds pursuant to Government Code Section 6509.5 or other applicable laws of the State of California;
 - (o) To undertake in cooperation with any other public or private agency or organization projects connected with or related to the activities and mission of the Discovery Center;
 - (p) To develop and participate in the creation of a foundation whose purpose shall be to solicit and secure funding for the Discovery Center and its activities and to promote and sponsor the purpose and objectives of this Agreement, the Authority and the Discovery Center.

- (q) To exercise powers common to the Parties, including but not limited to all the powers specified in the Joint Exercise of Powers Act, codified under Chapter 5 of Division 7 of Title 1 of the California Government Code (Govt. Code §6500 *et seq.*) for the purposes of implementing this Agreement.
- 3.2 The foregoing powers are subject to the restrictions upon the manner of exercising the powers as imposed upon the Upper District as provided in, and for the purposes of, Government Code §6509.
- 3.3 The Authority shall have no power to acquire property by eminent domain.

ARTICLE IV. GOVERNING BOARD

- 4.1. Organization: The Authority shall be governed by the Board which shall consist of the Board Members, each of which shall possess one (1) vote. Upon the initial execution of this Agreement, the Board seats shall be allocated as follows:
- (a) County Representative: One (1) of the Board seats shall be allocated to the Director of the County Department of Parks and Recreation. Such person shall serve at the pleasure of the County and may be removed by the County at any time with or without cause.
 - (b) RMC Representative: One (1) of the Board seats shall be allocated to a person appointed by the RMC in its sole and absolute discretion. Such person shall serve at the pleasure of the RMC and may be removed by the RMC at any time with or without cause.
 - (c) Upper District Representative: One (1) of the Board seats shall be allocated to a person appointed by the Upper District in its sole and absolute discretion. Such person shall serve at the pleasure of the Upper District and may be removed by the Upper District at any time with or without cause.
 - (d) Central Basin Representative: One (1) of the Board seats shall be allocated to a person appointed by the Central Basin in its sole and absolute discretion. Such person shall serve at the pleasure of the Central Basin and may be removed by the Central Basin at any time with or without cause.
 - (e) Stakeholder Representative: One (1) of the Board seats shall be allocated to the Chair of the Stakeholder Advisory Committee, a person selected by the Stakeholders and confirmed by majority vote of the Public Agency Board Members to serve on the Board. The initial allocation of Board seats to the County, the RMC, the Upper District and the Central Basin shall not be interpreted to preclude future additions to the total number of Board Members through the addition of new Parties to this Agreement pursuant to Section 10.5 (Admission of New Parties).
- 4.2. Meetings: The Board shall fix the hour, date and place for its regular meetings. Special and/or Adjourned meetings may be held as provided for under the Brown Act. All meetings of the Board shall be called, held and conducted in accordance with the provisions of the Brown Act and pursuant to such other rules adopted by the Board that are consistent with the Brown Act. The Board shall

keep, or cause to be kept, the minutes of the Board's open meetings and as soon as reasonably possible after each meeting, forward a copy of the minutes to each member of the Board. All Board Members shall maintain the confidentiality of any and all closed session meetings of the Board to the extent required by law.

- 4.3. Quorum and Procedure: A simple majority of the full membership of the Board shall constitute the minimum quorum necessary for the transaction of Board business. The affirmative vote of a majority of those members who participate in a vote on any given matter shall constitute an action of the Board. A Board Member participates in a vote when he or she (a) is present and seated at the dais during a meeting of the Board or participates in a teleconference authorized by the Brown Act; (b) is not disqualified from voting on a particular matter by operation of law, including without limitation the California Political Reform Act (Govt. Code §81000 *et seq.*); and (c) votes "Yes", "No" or "Abstains." By resolution, the Board may adopt Robert's Rules of Order, Newly Revised, to set forth the governing rules for the conduct of Board meetings, but only to the extent such rules are not in conflict with the Brown Act or any other applicable laws or with the provisions of this Agreement.
- 4.4. Compensation: Board Members shall serve without compensation from the Authority. The foregoing notwithstanding, each Party with a representative on the Board may elect to compensate its representative in compliance with all applicable laws of the State of California.
- 4.5. Notices: The Board, by resolution, shall designate a specific location at which it will receive notices, correspondence, and other communications and shall designate one of its employees or agents as its "officer" for the purpose of receiving service of process on behalf of the Authority.
- 4.6. Officers: At the first (1st) regular meeting of the Board, and annually thereafter on the first (1st) Board meeting held in the month of January of each year, the Board Members shall nominate and elect from among themselves a Board President, and Vice-President. In the event the elected President, or Vice-President ceases to be a Board Member or otherwise vacates the Board office, the resulting vacancy shall be filled at the next regular meeting of the Board held after such vacancy occurs. If the President is absent from a meeting of the Board, the Vice-President shall act as President. The President, or in his or her absence the Vice-President, shall preside over all meetings of the Board.

ARTICLE V. STATUTORY NOTICE REQUIREMENTS

- 5.1. Notice Upon Creation / Amendment of Agreement: Within thirty (30) days after the effective date of this Agreement or any amendment thereto (whichever the case may be), the Board shall cause a notice of such Agreement or such amendment to be prepared and filed with the office of the Secretary of State for the State of California. Pursuant to Government Code Section 6503.5, such notice shall contain:
 - (a) The name of each of the Parties and any other public agencies which may later become parties to this Agreement;
 - (b) The date upon which the Agreement became effective or the effective date of any amendment thereto;

- (c) A statement of the purpose of the Agreement; and
- (d) In the case of an amendment to this Agreement, a description of the amendment.

ARTICLE VI. ADMINISTRATION

- 6.1 Executive Officer: The Authority and the Discovery Center shall be administered in accordance with the policies and directives of the Board. The Board may appoint, hire or otherwise retain a person to serve as the Authority's Executive Officer. The Executive Officer shall perform the functions set forth under §6505.1 of the California Government Code and such other functions as the Board may prescribe by resolution.
- 6.2 Legal Counsel: The Authority may use counsel from its member agencies, or it may retain independent legal Counsel.
- 6.3 Use of Party Personnel: To implement this Agreement, the Parties hereto agree the Authority will enter into a separate contract with the County for the operation and/or maintenance of the Discovery Center facility which may include providing administrative support to the Authority and the Board.
- 6.4 Hiring of Personnel: To achieve the purposes of this Agreement, the Authority may, from time to time, establish positions and fix salaries of employees of the Authority. The Executive Officer shall be responsible for the overall supervision of such employees, subject to oversight by the Board.

ARTICLE VII. FISCAL CONTROLS AND ADMINISTRATION

- 7.1 Fiscal Year: The fiscal year of the Authority shall commence on the first (1st) day of July of each year.
- 7.2 Contributions of the Parties: To the extent funds are legally available therefore, the Parties are hereby authorized to make payments and contributions of public funds, as provided in §6504 of the California Government Code.
- 7.3 Responsibility for Funds and Disbursements: The Authority shall be strictly accountable for all funds, receipts, and disbursements. The Authority shall adopt an annual budget, in a form approved by the Parties, which budget shall be submitted to the Board for approval. Public funds may not be disbursed by the Authority except pursuant to a budget which has been adopted by the Board, and all receipts and disbursements shall be in strict conformance with the adopted and approved budget.
- 7.4 Designation of Treasurer-Depository of Authority Funds: Consistent with Section 6505.5 of the California Government Code, the Treasurer of the Upper District shall act as the treasurer of the Authority (hereinafter, the "Treasurer") and shall be the designated depository of the Authority's funds and have custody of all the money of the Authority, from whatever source. Acting in such capacity the Treasurer shall be responsible for the following:

- (a) Receive and receipt all money of the Authority and place such money in the Authority treasury to the credit of the Authority;
- (b) Be responsible, upon his or her official bond, for the safekeeping and disbursement of all Authority money so held;
- (c) Pay, when due, out of money of the Authority held by him or her, all sums payable on outstanding bonds and coupons of the Authority;
- (d) Pay any other sums due from the Authority from Authority money, or any portion thereof, only upon warrants of the public officer performing the functions of Auditor-Controller pursuant to this Agreement; and
- (e) Verify and report in writing on the first (1st) day of July, October, January and April of each year to the Authority Board and to the Parties to the Agreement, the amount of money he or she holds for the Authority, the amount of receipts since his or her last report, and the amount paid out since his or her last report.

Upon completion of the construction of the Discovery Center, the Parties may re-designate the Treasurer in compliance with applicable law and by amendment to this agreement. The initial Treasurer shall serve until replaced as set forth in this Agreement.

7.5 Designation of Authority Auditor-Controller / Duties of Auditor-Controller: Pursuant to Section 6505.5 of the California Government Code, an officer or employee of the Upper District shall serve as Auditor-Controller for the Authority. Any person designated to serve as Auditor-Controller shall possess the education, training, skills and experience necessary to perform the duties of Auditor-Controller and must possess any and all required licenses and certifications to perform such work. Upon completion of the construction of the Discovery Center, the Parties may re-designate the Party whose officer or employee shall serve as the Authority's Auditor-Control or such other person who may lawfully act as Auditor-Controller, in compliance with applicable law and by amendment to this Agreement. The initial Auditor-Controller shall serve until replaced as set forth in this Agreement.

7.6. Duties of Auditor-Controller: Pursuant to Sections 6505 and 6505.5 of the California Government Code, the Auditor-Controller shall do the following:

- (a) Draw warrants to pay demands against the Authority when the demands have been approved by the Treasurer and the Executive Director acting under the supervision of the Board;
- (b) Make or contract with a certified public accountant or a public accountant to make an annual audit of the accounts and records of the Authority, except that the Auditor-Controller need not make or contract for the audit in any case where an annual audit of the accounts and records of the Authority by a certified public accountant or public accountant is otherwise made by an agency of the state or the United States only as to those accounts and records which are directly subject to such a federal or state audit.

In each case, the minimum requirements of the audit shall be those prescribed by the Controller for special districts under Section 26909 of the California Government Code and shall conform to

generally- accepted auditing standards. Pursuant to Section 6505 of the California Government Code, when an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each of the contracting Parties to the Agreement and also with the County auditor and shall be sent to any public agency or person in California that submits a written request to the joint powers authority. Pursuant to Section 6505 of the California Government Code, such report shall be filed within twelve (12) months of the end of the fiscal year or years under examination. Any costs of the audit, including contracts with the certified public account or public accountant, in making the audit pursuant to Government Code Section 6505 shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for the purpose. Pursuant to Government Code Section 6505, the Authority Board, by unanimous vote, may replace the annual special audit with an audit covering a two-year period. Pursuant to Government Code Section 6505, the Authority shall be exempt from the requirement of an annual audit, if and only if, the financial statements are audited by the State Controller as a way of satisfying federal audit requirements.

- 7.7 Budget: Within sixty (60) days after the first meeting of the Board and annually on the first (1st) day of July thereafter, a general budget for the balance of the fiscal year and the ensuing fiscal year shall be adopted. The initial general budget and each succeeding general budget shall include without limitation the following: (a) the general administrative expenses of the Authority to be incurred during the period covered by the general budget; (b) the allocation among the Parties of the amounts necessary to cover the general budget expenditures; and (c) general operation and maintenance. Prior to the first full fiscal year of the Authority's operation, and for each successive year, the Board shall approve a preliminary general budget no later than the 1st day of April, for the next fiscal year. The Board shall adopt a final budget no later than July 1 of each year. A copy of the preliminary budget when approved and a copy of the final general budget when adopted shall be filed with each Party. The Parties acknowledge and agree that each shall be responsible for contributing to each annual budget its fair share for the annual maintenance and operation costs of the Discovery Center.
- 7.8 Books and Accounts: Full books and accounts shall be maintained for the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. In particular, the Authority's Treasurer and Auditor-Controller shall comply strictly with Title 1, Division 7, Chapter 5 of the California Government Code. (Govt. Code §6500 *et seq.*). The Treasurer of the Authority may invest Authority funds in accordance with applicable laws and with the prior consent of the Board. All interest collected on the Authority's funds shall be accounted for and posted to the account of such funds.
- 7.9 Audit: The records and accounts of the Authority shall be audited annually, in compliance with applicable law, and copies of the audit reports shall be filed with the County Auditor, the State Controller, and each of the Parties within one hundred twenty (120) days of the end of the fiscal year under examination. The audit shall be conducted in accordance with Generally Accepted Accounting Principles in the United States of America ("GAAP") and shall be accompanied by a financial/compliance opinion of an independent certified public accountant.
- 7.10 Inspection of Records and Audit: At any time during the normal business hours, the Authority shall make available to the Parties for examination, all of the data and records with respect to the Authority and all matters covered by this Agreement. The Authority shall permit the Parties to make audits of all invoices, materials, payrolls, records of personnel, and other data and media relating to

the matters covered by this Agreement, at the cost and expense of the Party seeking the audit and inspection. Except as otherwise required or authorized by law, the Authority shall maintain such data and records for a period of not less than three (3) years following the submission of each year's annual audit and financial report.

ARTICLE VIII. BOND

- 8.1. Bonding: The Executive Officer, and Treasurer shall file an official bond with the Authority. When deemed appropriate by the Authority, a master bond may be utilized as referred to in Government Code Section 1481, and the bond shall also comply with the requirements of Title 1, Division 4, Chapter 3 of the California Government Code, with those sections being deemed applicable to the Authority. The bond shall be in the initial amount of not less than Fifty Thousand Dollars (\$50,000.00) or such other sum as the Board may deem reasonably appropriate at some later point in time. The premium shall be paid by the Authority.

ARTICLE IX PRIVILEGES AND IMMUNITIES

- 9.1. Privileges and Immunities: Pursuant to Government Code Section 6513, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of any Party when performing its respective functions within the territorial limits of its respective public agency, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of Article 1 (Joint Powers Agreements) of Chapter 5 of Division 7 of the California Government Code.

ARTICLE X TERM OF AGREEMENT, ADMISSION AND WITHDRAWAL

- 10.1 Term of Agreement: This Agreement and the Authority created hereunder shall continue until terminated. No termination shall be effective until all revenue bonds and other forms of indebtedness issued pursuant hereto, and the interest thereon, shall have been paid or adequate provisions for such payment shall have been made in accordance with any resolution of the authority authorizing the issuance thereto.
- 10.2 Winding-Up Upon Termination of Agreement: Upon termination of this Agreement, the Authority forthwith shall wind up its affairs, including discharging all of its outstanding legal obligations. Personal property and funds remaining in the Authority shall be returned to the Party from which the funds or personal property were obtained, except as mutually agreed by the Parties. Except as otherwise provided under Section 10.6(c), all real property, if any, owned by the Authority shall be conveyed as the Authority shall determine, and if no determination is made, then such property shall be deemed to be conveyed to the Parties, in equal interests, as tenants in common.
- 10.3 Dissolution of Authority: Upon the effective date of the withdrawal of all the Parties from this Agreement, this Agreement shall be deemed terminated. As long as two or more Parties remain Parties to this Agreement, this Agreement shall remain in full force and effect. The Agreement may

also be terminated by unanimous written agreement of the Parties.

- (a) Preconstruction Termination: If the Parties terminate the Agreement prior to the commencement of construction of the Discovery Center, each Party shall receive their contribution to the Authority, subject to the payment of all of the Authority's outstanding debts and the discharge of all other outstanding liabilities.
- (b) Post-Construction Termination: If the Agreement is terminated following the construction of the Discovery Center, the facility and all attached fixtures shall become the property of the County. Each Party shall also receive its proportionate share of the Authority's residual monetary funds following payment of all of the Authority's outstanding debts and the discharge of any enforceable liabilities. The foregoing notwithstanding, if the County withdraws from the Agreement, the County agrees that, subject to its lease with the United States Army Corps of Engineers ("Army Corps"), the Authority shall maintain the exclusive authority to operate and maintain the Discovery Center facility without disruption or interference on the part of the County until such time as the Agreement is terminated or until such time as County ceases to maintain possession and control over the real property upon which the Discovery Center is situated, whichever occurs first.
- (c) Modification of Dissolution Terms: The Parties by mutual written agreement may modify the manner in which the Authority is terminated and the manner in which its assets shall be distributed.

- 10.4: Withdrawal of Parties: Any Party may withdraw as a Party to this Agreement any time provided the withdrawing Party provides all other Parties with one-hundred and eighty (180) days prior written notice of its intent to withdraw from the Agreement and the Authority. The foregoing notwithstanding, a withdrawing Party shall continue to be responsible for any and all outstanding financial obligations, debts, liabilities or other financial commitments incurred or pledged by the withdrawing Party during the fiscal year in which the withdrawal occurs. A withdrawing Party shall also continue to be responsible for any and all long-term financial commitments made by the Party, until such obligations are either discharged or arranged to the satisfaction of the remaining Parties.
- 10.5 Admission of New Parties: Additional "public agencies" within the meaning of Section 6500 of the California Government Code may become a Party to this Agreement by resolution of the governing boards of each of the then existing Parties and majority approval of the Public Agency Board Members. Notwithstanding the passage of resolutions in support of membership by the governing boards of each Party, the admission of new Parties shall also be conditioned upon such additional terms and conditions provided by the Board by way of a Participation Agreement between the Authority and the newly admitted Party. As an additional condition to admission all new Parties shall be required to become signatories to this Agreement by way of an addendum executed by all of the Parties.
- 10.6 Acknowledgment and Acceptance of Fundamental Responsibilities: Irrespective of any other provision contained in this Agreement, all Parties acknowledge, understand and agree to the following:
 - (a) In executing this Agreement each is committed to dedicating significant assets which are to be

utilized in the furtherance of the central objectives of this Agreement, namely, (1) the planning, design and construction of the Discovery Center at Whittier Narrows; (2) the securing of reliable long term funding sources for the operation and maintenance of the Discovery Center as well as for the development of exhibits and programs central to the Discovery Center's educational and informational purpose; (3) the creation of a stable, operational governance structure for the planning, design, development, construction, operation, maintenance and funding of the Discovery Center; and (4) the creation of a reliable administrative support structure to oversee the efficient and creative operation of the Discovery Center; and

- (b) The "significant assets" to be dedicated by a Party may include any or all of the following: (1) monetary contributions; (2) service contributions; (3) the dedication of personal property; or (4) the dedication of real property, including the real property at Whittier Narrows upon which the Discovery Center shall be constructed; and
- (c) County's agreement to use its best efforts to assign its interests in the land and/or use rights to the real property upon which the Discovery Center is situated is to be construed as satisfying the County's obligations to contribute (significant assets) for purposes of section 10.6 (b) above. The Parties acknowledge that such County actions are subject to any approvals required by the United States Army Corps of Engineers ("Army Corps"), applicable law and existing agreements between the County and the Army Corps. For purposes of section 10.2 above, on (Winding Up Upon Termination), any interest in property or use rights constructed by the County shall be returned solely to the County. For purposes of section 10.4 above, on (Withdrawal of Parties), any interests in property or use rights contributed by County shall be returned solely to County upon its withdrawal except that land use rights may be subleased to the Authority to operate the Discovery Center.

ARTICLE XI. LIABILITIES

- 11.1 Tort Liabilities: The tort liability of the Authority, its public employees and members of the Board, the Executive Officer and public employees of the Parties to this Agreement who may be loaned to the Authority, shall be controlled by the provisions of Division 3.6 of the California Government Code (Govt. Code §810 *et seq.*). The provisions of Division 3.6 of the California Government Code relating to indemnification of public employees and the defense of actions arising out of any act or omission occurring in the scope of their employment, shall apply to all public Board Members, the Authority's public officers, public employees and elected or appointed officials, officers and employees of each of the public Parties.
- 11.2 As authorized by California Government Code Section 6508.1, the Parties wish to expressly provide in this Agreement, that the debts, liabilities and the obligation of the Authority shall not be the debts, liabilities and obligations of the Parties to the Agreement. Therefore, the Parties wish to rely upon the authorization of Government Code Section 6508.1 and its interpretation in Tucker Land v. State of California (2001) 94 Cal. App. 4th 1191, and thereby make this Agreement and provide that neither the Authority, nor its governing Board, shall have the power to bind the Parties to this Agreement, or any of them, to any debt, liability, contract or obligation, or to employ any person on behalf of the Parties, or any of them; no debt, liability, contract, obligation, employee, or agent of the Authority or its Board shall be or constitute thereby a debt, liability, contract, obligation, employee

or agent of the Parties or any of them. The forgoing, shall not release each Party from fulfilling or otherwise satisfying any funding pledges it makes as part of the Authorities annual budget.

ARTICLE XII. INSURANCE

- 12.1. Insurance Specifications: As more specifically set forth in the insurance specifications attached and incorporated hereto as *Exhibit "A"*, the Authority shall procure and maintain for the duration of this Agreement (or for whatever duration is otherwise required under this Article) insurance against claims for damage to property or injuries to persons (including without limitation bodily injury and personal injury) which may arise from, or occur in connection with, the performance of this Agreement by the Authority or the Authority's officials, officers, employees, representatives, agents and volunteers. The Board by resolution may from time to time amend or modify the insurance requirements set forth under *Exhibit "A"*.

ARTICLE XIII. CONTROVERSIES

- 13.1. Disputes and Defaults: In the event (a) of any reasonable good faith dispute or disagreement as to the interpretation, meaning or effect of any provision of this Agreement; or (b) any Party fails to perform or adhere to any duty, obligation, term, condition or provision of this Agreement, a putative default shall have occurred. Except as otherwise provided in this Agreement, if a putative default remains uncured or unresolved by a Party alleged to be in default for a period in excess of sixty (60) calendar days from the date upon which the Party alleging default issues notice of default (hereinafter, a "Default Notice") to the allegedly defaulting Party, the Party upon whom the Default Notice is issued shall be deemed in "Default." In the event of such Default, the non-Defaulting Party may pursue any and all remedies available to it at law or in equity, provided however that the initiation of any legal proceedings shall be preceded by mediation and/or arbitration. Where a Default arises out of a dispute or disagreement as to the interpretation, meaning or effect of any provision of this Agreement, during the 60-day period referenced, above, shall with diligence and in good faith, meet and confer to identify and articulate the source of the dispute or disagreement and offer a written explanation to the opposing Party setting forth the grounds and basis for that Party's particular interpretation of provision at issue. The Parties agree that the language of any provision shall be interpreted according to its plain wording, unless such interpretation would lead to an absurd or illegal outcome. The Parties further agree that a dispute or disagreement as to the meaning or effect of any provision is not made in "good faith" if the wording is susceptible to only one reasonable meaning.
- 13.2. Legal Costs: The Parties agree that they shall each be responsible for their respective attorneys fees, expert fees, court fees and other litigation costs, regardless of whether a Party ultimately prevails through legal action or any other manner of proceeding arising out of a Default. The Parties further agree that they shall each be responsible for an equal share of the cost of any mediator or arbitrator presiding over any mediation or arbitration proceedings whether or not such mediation or arbitration proceedings are undertaken voluntarily by the Parties or on the order or directive of a court of competent jurisdiction. The mediator or arbitrator shall be a person mutually agreed to by the Parties.
- 13.3. Per Se Defaults: A Party shall be in Default *per se*, where the Party fails to contribute or pay when due, any sums committed or pledged by the Party pursuant to any budget adopted under the

provisions of this Agreement. In addition to the rights and remedies accorded under Section 13.1, above, in the event a Party is in Default on the grounds stated in this Section 13.3, the Public Agency Members representing the Parties that are not in Default, may by unanimous vote, expel the defaulting Party from further participation under this Agreement, including revocation of Party status and the right to appoint a representative to the Board. Consistent with Section 10.4, above, a Party so expelled from the Authority and this Agreement shall continue to be responsible for any and all outstanding financial obligations, debts, liabilities or other financial commitments incurred or pledged by the withdrawing Party during the fiscal year in which the withdrawal occurs. A withdrawing Party shall also continue to be responsible for any and all long-term financial commitment, until such obligations are either discharged or arranged to the satisfaction of the remaining Parties.

ARTICLE XIV. MISCELLANEOUS

- 14.1. Notices: All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

COUNTY:

County of Los Angeles
Department of Parks & Recreation
433 S. Vermont Ave.
Los Angeles, CA 90020-1975
Attn: Director

Phone: (213) 738-2951
Fax: (213) 738-6444

RMC:

San Gabriel & Lower Los Angeles Rivers and
Mountains Conservancy
900 S. Freemont Ave
Annex Bldg., 2nd Floor
Alhambra, CA 91802-1460
Attn: Executive Officer

Phone: (626) 458-4315
Fax: (626) 979-5363

UPPER DISTRICT:

Upper San Gabriel Valley Municipal Water District
11310 Valley Boulevard
El Monte, California 91731
Attn: General Manager

Phone: (626) 443-2297
Fax: (626) 443-0617

CENTRAL BASIN

Central Basin Municipal Water District
17140 S. Avalon Blvd., Suite 210

Carson, CA 90746-1296
Attn: General Manager

Phone: (310) 217-2411
Fax: (310) 217-2414

Such notice shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or, when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepared and addressed to the Party at its applicable address.

- 14.2. Captions and Headings: All captions and headings contained herein are for convenience only, and are not to be construed as governing or modifying the language of the Agreement.
- 14.3. Governing Law: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If applicable law requires that all or part of any such litigation be tried in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 14.4. Modification: This Agreement may be amended from time-to-time in writing by unanimous action of the Parties; provided however, that any such amendment shall take into consideration the holders of any revenue bonds or other forms of indebtedness which are outstanding in accordance with any resolution of the authority authorizing the issuance thereof. Upon amendment of this Agreement, the Authority shall also comply with the statutory notice requirements referenced in Article V, above.
- 14.5. Binding Effect: This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties.
- 14.6. Severance Clause: If any section, subsection, sentence, clause, or phrase of this Agreement, or the application thereof, to any of the Parties for any other person or circumstances, is for any reason held invalid, the validity of the remainder of the Agreement, or the application of such provision to the other Parties, or to any other person or circumstances, shall not be affected thereby. Each of the Parties hereby declares that it would have entered into this Agreement and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, phrases, or the application thereof, to any Party or any other person or circumstance be held invalid.
- 14.7. Non-Assignment: The Parties shall not assign any rights or obligations under this Agreement without the written consent of the Authority Board and the other Parties to this Agreement.
- 14.8. Authorization to Execute: The officers and/or officials signing this Agreement on behalf of their respective Parties warrant and represent that they have been duly authorized by the governing body of the Party they represent to execute this Agreement on behalf of the Party and bind the same to all the terms, conditions, duties, provisions and obligations contained herein.
- 14.9. Counterparts: This Agreement may be signed in counterparts. The "Effective Date" of this Agreement shall be the date upon which the County, the RMC, the Upper District and Central Basin

have all executed this Agreement and shall be the first date to appear above.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year hereinafter indicated.

COUNTY OF LOS ANGELES

By: _____
Chairman, Board of Supervisors

Attest:

Violet Varona-Lukens
Executive Officer-Clerk of the
Board of Supervisors

By: _____
Deputy

SAN GABRIEL AND LOWER LOS ANGELES
RIVERS & MOUNTAINS CONSERVANCY:

By: Belinda V Faustinos
Name: BELINDA V. FAUSTINOS
Title: EXECUTIVE OFFICER
Date: 9/21/05

UPPPER SAN GABRIEL VALLEY
MUNICIPAL WATER DISTRICT:

By: Timothy C. Jochem
Name: Timothy C. Jochem
Title: General Manager
Date: 10/5/05

CENTRAL BASIN MUNICIPAL WATER
DISTRICT:

By: Arthur J. Aguilar
Name: Arthur J. Aguilar
Title: General Manager
Date: 11/9/05

APPROVED AS TO FORM
BY COUNTY COUNSEL

RAYMOND G. FORTNER, JR

By: [Signature]
Lillian D. Salinger, Senior Deputy

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

By: E. Clarke Moseley
Name: E. Clarke Moseley
Title: General Counsel
Date: 10/5/05

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"
to
SAN GABRIEL RIVER DISCOVERY CENTER AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT

INSURANCE SPECIFICATIONS

A. Required Coverages: For the purposes generally stated under Article XII, Section 12.1, of that certain San Gabriel River Discovery Center Authority Joint Exercise of Powers Agreement to which this Exhibit "A" is attached, the Authority shall procure and maintain the following insurance coverage, at its own expense, for the duration for this Agreement or any extended period set forth herein:

(1) Commercial General Liability Insurance: Authority shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") providing coverage as broad as that of Insurance Services Office (ISO) Commercial General Liability coverage form (occurrence Form CG 0001). Such CGL Coverage shall have minimum limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence and a general aggregate limit of Ten Million Dollars (\$10,000,000.00). The CGL Coverage shall include operations, products and completed operations coverage. Such CGL coverage shall be endorsed utilizing endorsement form CG 20 10 11 85 or its equivalent. All CGL Coverage shall be endorsed to name each of the Parties and their respective elected or appointed officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Authority; and automobiles owned, leased, hired or borrowed by Authority.

(a) CGL Coverage shall include: a broad form property damage liability endorsement (including completed operations); a contractual liability endorsement naming the Agreement; and a cross liability endorsement. CGL Coverage shall also contain or be endorsed to contain the following provisions:

- i. Authority's insurance shall be primary insurance as respects the Parties or their respective elected or appointed officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by County, RMC, Upper District, Central Basin or their respective elected or appointed officials, officers, employees, agents and volunteers shall be excess of Authority's insurance and shall not contribute with it; and
- ii. There will be no cancellation, suspension, reduction or voiding of coverage without **thirty (30)** calendar days prior written notice by certified mail, return receipt requested, to each of the Parties. If any reduction of coverage occurs, Authority shall furnish the Parties with information regarding such reduction at Authority's earliest possible opportunity but in no case later than five (5) calendar days after Authority is notified of the change in coverage. Any failure to comply with reporting or other provisions of the policy, including breaches of warrants, shall not affect the coverage provided to the Parties or their

respective elected or appointed officials, officers, employees, agents or volunteers; and

(2) Automobile Liability Insurance: The Authority shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.

(a) Required Endorsements: The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion and add the Motor Carrier Act endorsement (MCS-90), TL 1005, TL 1007 and/or other endorsements required by federal or state authorities. The automobile liability policy shall also contain or be endorsed to contain the following provisions:

- i. The Parties and their respective elected or appointed officials, officers, employees, agents and volunteers shall be named as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Authority; and with respect to liability arising out of work or operations performed by or on behalf of Authority including materials, parts or equipment furnished in connection with such work or operations; and
- ii. Authority's insurance shall be primary insurance as respects the Parties or their respective elected or appointed officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by the Parties or their respective elected or appointed officials, officers, employees, agents and volunteers shall be excess of Authority's insurance and shall not contribute with it; and
- iii. There will be no cancellation, suspension, reduction or voiding of coverage without thirty (30) calendar days prior written notice by certified mail, return receipt requested, to each of the Parties. If any reduction of coverage occurs, Authority shall furnish the Parties with information regarding such reduction at Authority's earliest possible opportunity but in no case later than five (5) calendar days after Authority is notified of the change in coverage. Any failure to comply with reporting or other provisions of the policy, including breaches of warrants, shall not affect the coverage provided to the Parties or their respective elected or appointed officials, officers, employees, agents or volunteers.

(3) Workers' Compensation Insurance/ Employer's Liability: Authority shall procure and maintain Workers' Compensation Insurance affording coverage at least as broad as that required by the State of California with Employer's Liability Insurance with minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. The Authority shall procure Workers' Compensation Insurance from a carrier with an A.M. Best Rating of A:VII, unless otherwise authorized by majority vote of the Board. The Workers' Compensation insurer shall also agree to waive all rights of subrogation against the

Parties and their respective elected and appointed officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy. Workers' Compensation insurance shall also provide or be endorsed to provide: There will be no cancellation, suspension, reduction or voiding of coverage without **thirty (30)** calendar days prior written notice by certified mail, return receipt requested, to County. If any reduction of coverage occurs, Authority shall furnish the Parties with information regarding such reduction at Authority's earliest possible opportunity and in no case later than five (5) calendar days after Authority is notified of the change in coverage. Any failure to comply with reporting or other provisions of the policy, including breaches of warrants, shall not affect the coverage provided to County or County's elected or appointed officials, officers, employees, agents or volunteers.

- (4) Errors and Omissions Liability Insurance: For the full term of this Agreement and for a period of five (5) years thereafter, Authority shall procure and maintain on behalf of the Board, Errors and Omissions Liability Insurance. Such coverage shall have minimum limits of not less than Five Million Dollars (\$5,000,000.00) per claim occurrence. Such insurance shall be endorsed to include contractual liability. Errors and Omissions Liability Insurance shall also provide or be endorsed to provide:
- (a) There will be no cancellation, suspension, reduction or voiding of coverage **thirty (30)** calendar days prior written notice by certified mail, return receipt requested, to County. If any reduction of coverage occurs, Authority shall furnish the Parties with information regarding such reduction at Authority's earliest possible opportunity, but in no case later than five (5) calendar days after Authority is notified of the change in coverage; and
 - (b) Authority's insurance shall be primary insurance as respects to the Parties or their respective elected or appointed officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by the Parties or their respective elected or appointed officials, officers, employees, agents and volunteers shall be excess of Authority's insurance and shall not contribute with it; and
- B. Requisite Carrier Profile: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds, however, coverage may be procured from non-admitted insurers if authorized by majority vote of the Board. Except as otherwise provided elsewhere under this Article XII (Insurance), all required insurance shall be procured from insurers with an A.M. Best's rating of not less than A:VII or equivalent rating, unless otherwise authorized by majority vote of the Board.
- C. Separation of Insureds: All varieties of insurance required under this Article shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the Parties or their respective elected or appointed officials, officers, employees, agents or volunteers.
- D. Requirements Common to All Insurance Policies: All insurance procured by the Authority shall be primary to and not contributing with any other insurance or self-insurance programs maintained by any of the Parties. Each policy shall be endorsed to provide that all Parties will receive written notice by mail at least thirty (30) days in advance of policy cancellation.

- E. Waiver of Subrogation: No policy of insurance or endorsement thereto that is procured by Authority pursuant to this Article XII (Insurance) shall allow (either expressly or by the omission of any express prohibition) any insurance carrier to seek subrogation from the Parties or their respective elected or appointed officials, officers, employees, agents or volunteers for any sums paid by the insurance carrier on behalf of Authority or its officials, officers, employees, agents or volunteers. All policies of insurance required under this Article XII (Insurance) shall contain provisions waiving or shall be endorsed to waive any subrogation rights or other like rights of recovery by the insurance carrier against the Parties and their respective elected or appointed officials, officers, employees, agents and volunteers for any sums paid on behalf Authority or Authority's officials, officers, employees, agents or volunteers by the insurance carrier.